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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,750	01/17/2006	Masahiko Ishida	Q92709	1790
23373 7590 04/08/2009 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER HITE-SHEW, FELISA CARLA				
ART UNIT		PAPER NUMBER		
1792				
MAIL DATE		DELIVERY MODE		
04/08/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,750

Applicant(s)

ISHIDA ET AL.

Examiner

Felisa C. Hiteshew

Art Unit

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-19, 21-23 and 26-33 is/are allowed.
- 6) ☒ Claim(s) 3-11, 20, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Response to Arguments

2. Applicant's arguments, see the remarks, filed 01/23/2009, with respect to claims 31 and 33 have been fully considered and are persuasive. The claim objection of 0924/2008 has been withdrawn.
3. Applicant's arguments, see the remarks, filed 01/23/2009, with respect to claims 6, 28 and 29 have been fully considered and are persuasive. The 112, 2nd paragraph rejection of 09/24/2008 has been withdrawn.
4. Applicant's arguments filed 01/23/2009 have been fully considered but they are not persuasive for claims 3-11, 20 and 24-25.
5. The applicants argue that the process of JP '335 is not carried out in a vacuum. It is well known to the skilled artisan to use a vacuum for a CVD method to produce a resist film.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 3-11, 20 and 24-25 are rejected under 35 U.S.C. 102 (b) as being anticipated by Japanese Patent 2002-285335 A.

JP '335 A teaches a CVD method for fixing a catalytic pattern for producing a carbon nanotube, comprising: the catalytic pattern for producing a carbon nanotube is

formed on the surface of a substrate. As a manufacturing method of the substrate in this case, detailed fine pores are made to a (i) substrate, and the method of forming a minute catalyst particle on a substrate by etching of the method of embedding a catalyst particle on a substrate by etching of the method of embedding a catalyst particle there and a (ii) metal plate, etc... are known. The catalytic pattern is formed, wherein a pattern consisting of a mixture containing a photosensitive material and a catalyst is previously formed on the substrate, by removing the photosensitive material contained in the pattern (See paragraphs 5, 9, 14-15, 26, 38 and 45).

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Allowable Subject Matter

8. Claims 12-19, 21-23 and 26-33 are allowed.

9. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).
10. Claims 21-23, 26-27, 30 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not teach nor render obvious the instantly claimed invention. There is no teaching in the art to perform the process that is now claimed. The prior art does not teach the CVD method, as stated in the instant invention. There is no motivation in the art to change the prior art's teaching of to arrive at the instantly claimed process.

Any minor differences in the limitations of the dependent claims have been considered. This statement is meant to include limitations such as

Furthermore, any such differences are deemed to be result-effective variables that one of ordinary skill in the art would be expected to manipulate to advantage. Additionally, such limitations can be considered to have been simply known as conventional to the artisan practicing in the art at the time the invention was made and/or were common practices which were so well known in the art that they would have been taken for granted. If applicant believes that one or more limitations are critical to the invention, then applicant should amend the claims to reflect such critical limitations as well as indicate where in the specification such critical limitations were discussed and demonstrated.

The limitations of all claims have been considered and are deemed to be within the purview of the prior art.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Felisa Hiteshew whose telephone number is (571) 272-1463. The examiner can normally be reached on Mondays through Thursday from 5:30 AM to 4:00 PM with Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Mikhail Kornakov, can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-1463.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public

PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866- 217-9197 (toll-free).

/Felisa C. Hiteshew/
Primary Examiner, Art Unit 1792